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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,828	12/12/2003	Roland Deckwer	09879-00039-US BCS 02-100	5323
23416	7590	07/05/2006	EXAMINER CLARDY, S	
CONNOLLY BOVE LODGE & HUTZ, LLP P O BOX 2207 WILMINGTON, DE 19899			ART UNIT 1617	PAPER NUMBER

DATE MAILED: 07/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



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Claims 1-14 are pending in this application.

Applicants' claims are drawn to safened herbicidal oil suspension concentrates, methods of making them, and methods of using them, the compositions comprising:

- a) suspended sulfonamide herbicide(s), in claim 2:

phenylsulfonamides  
phenylsulfonylaminocarbonyltriazolinones  
phenylsulfonylureas  
heteroarylsulfonylaminocarbonyltriazolinones  
heteroarylsulfonylureas

- b) safener(s), in claim 3:

isoxadifen  
8-quinolineoxyacetic acid (cf: cloquintocet)

- c) organic solvent(s), in claim 4:

(subst.) hydrocarbons, aprotic polar solvents, fatty acid esters

- d) sulfosuccinate(s), in claim 5:

mono-/di-esters of sulfosuccinic acid:



The triazinylsulfonylureas iodosulfuron and thifensulfuron are specifically exemplified, as is the safener mefenpyr (p. 94).

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claim 2 recites a various classes of herbicides, some preferred, apparently others not so preferred. The classes are also somewhat “nested” with some classes calling within the scope of others. It is difficult to assess how the claim is structured. It would be preferable to simply recite the various classes in separate dependent claims.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combined teachings of Schnabel et al (US 6,693,063), Wurtz et al (US 2002/0016263), and Sixl (US 6,479,432).

Schnabel et al teach emulsifiable concentrates (column 10) comprising ALS inhibitors such as sulfonylurea herbicides (columns 19-21) including iodosulfuron (col 19, lines 45-47) and thifensulfuron (col 21, line 36), in combination with safeners (columns 27-28), hydrocarbon solvents (column 15), and wetting agents such as sulfosuccinic acid esters (col 16, lines 20-25).

Wurtz et al teach liquid formulations, i.e., emulsion concentrates (para 12) comprising ALS inhibiting herbicides such as the sulfonamides and sulfonylureas (para 69-120) and polycarboxylic acid derivatives such as sulfosuccinic acid esters (para 44-55). The compositions may further comprise organic solvents and surfactants (para 122-141), and safeners (para 163-178). Preferred compositions comprise a sodium dialkylsulfosuccinate, one or more sulfonylureas such as iodosulfuron, and a safener such as mefenpyr or isoxadifen (para 181).

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Sixl teaches suspension concentrate compositions (abstract) comprising sulfonylurea herbicides (col 3-6), safeners (col 10), organic solvents (col 10-12), emulsifiers (col 12-14), and other agents (abstract).

One of ordinary skill in the art would be motivated to combine these references in order to take advantage of the formulation advantages of the various adjuvant materials in these patents that all pertain to suspensions of sulfonylurea herbicides.

Thus it would have been *prima facie* obvious to the ordinary artisan at the time the invention was made to have combined applicants' components in a single herbicidal oil suspension concentrate because the prior art teaches that it was well known in the art to combine the disclosed sulfonylurea herbicides, safeners, and solvents in a suspension concentrate, and because Wurtz et al specifically discloses the utility of adding the sulfosuccinate esters in these compositions.

No unobvious or unexpected results are noted; no claim is allowed.

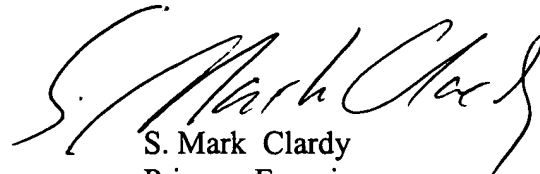
This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to S. Mark Clardy whose telephone number is 571-272-0611. The examiner can normally be reached on 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreenivasan Padmanabhan can be reached on 571-272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "S. Mark Clardy". The signature is fluid and cursive, with a large initial "S" and a stylized "C" at the end.

S. Mark Clardy  
Primary Examiner  
Art Unit 1617

June 23, 2006